

PATENT

Attorney Docket No.: 390780
Express Mail Label No.: EV 008784644 US

Claims 8-10 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent 4,930,906 to Hemphill.

A copy of the Notice of Appeal filed concomitantly with this response has been provided for the Examiner's convenience.

Rejections Under 35 U.S.C. § 103(a)

Claims 1-7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Robbins. Applicant respectfully traverses the rejection and requests withdrawal of same.

Applicant's invention teaches a method for measuring volatile organic compounds (VOCs) of material produced in a process system having emissions. Examples of process systems in which this method may be utilized are provided in Applicant's specification at least on page 4, and include spray dryers, mixers, fluid bed dryers and coolers, and storage tanks. All of these systems are closed systems, and as such have dynamic air flow properties. Applicant maintains that Applicant's claims must be read in light of the specification.

Robbins teaches a method for measuring the volatile constituent of a **sample of ground water or soil mixed with water**. The systems described in Robbins are open systems, or in other words, systems open to the atmosphere, not the closed systems of Applicant's invention. Further, Robbins does not teach or suggest a method for measuring volatile organic compounds in a **process system having emissions**, as provided by way of Applicant's invention. Specifically, the leakage of underground storage tanks and the testing of the contaminated soil resulting therefrom as described in Robbins is an open system, and does not teach or suggest the measurement of VOCs in the closed systems of Applicant's invention. Robbins therefore does not support the obviousness rejection of Applicant's invention. There is no teaching or suggestion of a method for measuring volatile organic compounds (VOCs) of material produced in a process system having emissions as provided by way of Applicant's invention. A *prima facie* case of obviousness has not been established. Applicant requests withdrawal of the rejection.

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Applicant notes that the Examiner's statement in the Office Action dated October 24, 2002, pertaining to the "anticipation" of Applicant's invention by Hemphill is misplaced. The rejection of record at this time is an obviousness rejection over the Hemphill reference. As so stated, the Examiner refers to an "anticipation" rejection. This is clearly in error. Applicant requests clarification.

Hemphill teaches a cooking grease disposal bag. Hemphill does not teach or suggest a kit for measuring volatile organic compounds produced in a process system having emissions as provided by way of Applicant's invention. Further, Hemphill does not teach or suggest process systems having emissions, nor does Hemphill teach or suggest volatile organic compounds being emitted in any system. Applicant maintains the current rejection of Claims 8-10 over Hemphill is analogous to making an obviousness rejection of Claims 8-10 over any resealable bag. There simply is no teaching or suggestion in Hemphill of Applicant's kit for measuring VOCs in a system having emissions as claimed. A *prima facie* case of obviousness has not been established. Applicant respectfully requests withdrawal of the rejection.

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Conclusion

Applicant respectfully requests withdrawal of all rejections of Claims 1-10.

Should the Examiner believe that any issues remain outstanding, the Examiner is requested to call Applicant's undersigned attorney in an effort to resolve such issues and advance this application to issue.

Respectfully submitted,

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